

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 98

Introduced by Senator Murray

January 14, 2005

~~An act to amend Section 91 of the Streets and Highways Code, relating to transportation.~~ *An act to amend Section 758.5 of the Insurance Code, relating to auto insurance.*

LEGISLATIVE COUNSEL'S DIGEST

SB 98, as amended, Murray. ~~Department of Transportation~~ *Auto insurance: repairs.*

Existing law prohibits an insurer from requiring that an automobile be repaired at a specific automotive repair dealer. Existing law prohibits an insurer, if the claimant elects to have the vehicle repaired at the repair shop of his or her choice, from limiting or discounting the reasonable repair costs based on charges that would have been incurred had the vehicle been repaired by the insurer's chosen shop.

This bill would provide that, if the insurer and the shop chosen by the claimant to perform the repairs cannot agree on the price of the repairs, the insurer may obtain and present to the shop two or more quotes from other shops in the area that will perform and guarantee the repairs, and that the insurer shall be liable for only the higher of the quotes presented.

The bill would allow an insurer to offer a preferred provider program to an insured in which, in return for a premium reduction, the insured agrees that the insurer shall be liable only for the cost of repairs performed at any one of three automotive repair dealers recommended by the insurer.

~~Existing law makes the Department of Transportation responsible for improving and maintaining the state highways.~~

~~This bill would make a nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 91 of the Streets and Highways Code is~~
2 ~~amended to read:~~
3 *SECTION 1. Section 758.5 of the Insurance Code is amended*
4 *to read:*
5 758.5. (a) No insurer shall require that an automobile be
6 repaired at a specific automotive repair dealer, as defined in
7 Section 9880.1 of the Business and Professions Code.
8 (b) (1) No insurer shall suggest or recommend that an
9 automobile be repaired at a specific automotive repair dealer
10 unless either of the following applies:
11 (A) A referral is expressly requested by the claimant.
12 (B) The claimant has been informed in writing of the right to
13 select the automotive repair dealer.
14 (2) If the recommendation is accepted by the claimant, the
15 insurer shall cause the damaged vehicle to be restored to its
16 condition prior to the loss at no additional cost to the claimant
17 other than as stated in the policy or as is otherwise allowed by
18 law. If the recommendation of an automotive repair dealer is
19 done orally, and if the oral recommendation is accepted by the
20 claimant, the insurer shall provide the information contained in
21 this paragraph, as noted in the statement below, to the claimant at
22 the time the recommendation is made. The insurer shall send the
23 written notice required by this paragraph within five calendar
24 days from the oral recommendation. The written notice required
25 by this paragraph shall include the following statement plainly
26 printed in no less than 10-point type:
27 “WE ARE PROHIBITED BY LAW FROM REQUIRING
28 THAT REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE
29 REPAIR DEALER. YOU ARE ENTITLED TO SELECT THE
30 AUTO BODY REPAIR SHOP TO REPAIR DAMAGE
31 COVERED BY US. WE HAVE RECOMMENDED AN
32 AUTOMOTIVE REPAIR DEALER THAT WILL REPAIR
33 YOUR DAMAGED VEHICLE. IF YOU AGREE TO USE OUR
34 RECOMMENDED AUTOMOTIVE REPAIR DEALER, WE
35 WILL CAUSE THE DAMAGED VEHICLE TO BE

1 RESTORED TO ITS CONDITION PRIOR TO THE LOSS AT
2 NO ADDITIONAL COST TO YOU OTHER THAN AS
3 STATED IN THE INSURANCE POLICY OR AS
4 OTHERWISE ALLOWED BY LAW. IF YOU EXPERIENCE A
5 PROBLEM WITH THE REPAIR OF YOUR VEHICLE,
6 PLEASE CONTACT US IMMEDIATELY FOR
7 ASSISTANCE.”

8 (c) Except as provided in subparagraph (A) of paragraph (1) of
9 subdivision (b), after the claimant has chosen an automotive
10 repair dealer, the insurer shall not suggest or recommend that the
11 claimant select a different automotive repair dealer.

12 (d) Any insurer that, by the insurance contract, suggests or
13 recommends that an automobile be repaired at a particular
14 automotive repair dealer shall also do both of the following:

15 (1) Prominently disclose the contractual provision in writing to
16 the insured at the time the insurance is applied for and at the time
17 the claim is acknowledged by the insurer.

18 (2) (A) If the claimant elects to have the vehicle repaired at
19 the shop of his or her choice, the insurer shall not limit or
20 discount the reasonable repair costs based on charges that would
21 have been incurred had the vehicle been repaired by the insurer’s
22 chosen shop.

23 (B) *Notwithstanding subparagraph (A), if the insurer and the*
24 *shop chosen by the claimant to perform the repairs cannot agree*
25 *on the price of the repairs, the insurer may obtain and present to*
26 *the shop two or more quotes from other shops in the area that*
27 *will perform and guarantee the repairs. The insurer shall be*
28 *liable for only the higher of the quotes presented.*

29 (e) For purposes of this section, “claimant” means a first-party
30 claimant or insured, or a third-party claimant who asserts a right
31 of recovery for automotive repairs under an insurance policy.

32 (f) The powers of the commissioner to enforce this section
33 shall include those granted in Article 6.5 (commencing with
34 Section 790) of Chapter 1 of Part 2 of Division 1.

35 (g) *Nothing in this section shall prevent an insurer from*
36 *offering a preferred provider program to an insured in which, in*
37 *return for a premium reduction, the insured agrees that the*
38 *insurer shall be liable only for the cost of repairs performed at*
39 *any one of three automotive repair dealers recommended by the*
40 *insurer.*

1 ~~91. The department shall improve and maintain the state~~
2 ~~highways, including all traversable highways that have been~~
3 ~~adopted or designated as state highways by the commission, as~~
4 ~~provided in this code.~~

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